

REMARKS

In the first Office Action, dated December 6, all of the independent claims (1, 12, 20, 26, 30 and 39) and some dependent claims (2-3, 11, 13, 15, 19, 21, 25, 29, 31, 36-38, 40 and 45-47) were rejected under 35 U.S.C. § 102 for anticipation in view of Allard, U.S. Patent No. 6,018,619. The remaining dependent claims were rejected under 35 U.S.C. § 103 in view of Allard and various combinations of other art, including Nakamura (US. Pat. No. 5,987,424), Dietz (US. Pat. No. 6,651,099), Dice (US. Pat. No. 6,289,451) and Schuster (US. Pat. No. 6,170,075). Claims 1-11 were also rejected under 35 U.S.C. § 112 for asserted indefiniteness with the language of claim 1.

By this paper, each of the independent claims (1, 12, 20, 26, 30 and 39) has been amended, as have several dependent claims (6, 13-14, 16, 21-23, 27, 29, 31 and 40) to promote clarity and to also promote consistency of claim terminology with the amended language in the independent claims. Claim 9 has also been cancelled, such that claims 1-8 and 10-47 now remain pending.

Initially, with regard to the indefiniteness rejection to claim 1, Applicants respectfully point out that the language of the preamble is in perfectly proper claim format and uses proper claim language to indicate a method for tracking a client's usage that is implemented in a computer network having the recited characteristics that are found in the preamble. Furthermore, with regard to the recited claim elements of "receiving..." and "updating..." the claim has been amended to more clearly reflect that it is the server that is receiving and updating. Accordingly, the 112 rejections should now be withdrawn.

The method recited in claim 1 is directed to an embodiment for tracking a client's usage based on metering packets that the client sends to the server and that are associated with a session identifier and that are used to update a usage database. As amended, the method makes clear that the metering packets include a time element comprising both "a charged time portion and a free time portion, the charged time portion corresponding to some access to the one or more services that incurs an access charge, and a free time portion corresponding to other access to the one or more services that does not incur an access charge." This element which has been added by this paper, and which comes directly from cancelled claim 9, was found by the Examiner to be unpatentable in view of Nakamura.

Applicants respectfully submit, however, that Nakamura fails alone or in combination with any of the other cited art to teach or suggest that a time element having both a charged time portion and a free time portion is included in a metering packet sent from a client to a server to track client usage. Instead, Nakamura is directed to a system for discounting communications charges (Title) by using an Exchange 4 to monitor connectivity and to distribute charges appropriately. (Columns 11 and 12). As described, Nakamura provides "a method which allows time information or the like, which is usually provided with charge, to be acquired free of charge by an ordinary public telephone set or subscriber telephone set." Col. 5, ll. 15-20. Nakamura fails, however, to teach of a time element that is included as part of a metering packet that is sent from a client to a server, as claimed. The distinction between the present invention and Nakamura is particularly striking when considering the structure of the metering packet and the time element as shown in the pending application (see for example Figure 3 showing the charged time portion 330 and the free time portion 340).

For at least the foregoing reasons, Applicants respectfully submit that claim 1 and the corresponding dependent claims are distinguished from the art of record. Although it is not necessary to address the individual rejections to dependent claims 2-11 at this time, for at least the fact that they depend on claim 1, Applicants will specifically address the rejections made to claims 3 and 6.

Claim 3 makes reference to both session-ending metering packets and session-in-progress metering packets. In rejecting this claim, the Examiner cited passages in Allard (Col. 11, lines 11-15 and Col. 15, ll. 50-55) that teach about different types of "events". It should be appreciated, however, that these "events" are distinguished from different types of "metering packets", as claimed. This contrast is particularly striking when considering that Allard refers to client usage data as a "usage log", such that, if anything, it is Allard's "tracking usage data object" that should be compared with the claimed "metering packets," not Allard's "events."

Applicants would also like to address the Examiners rejection to claim 6 based on Official Notice. Claim 6 deals with acts for indicating that usage should be tracked for all clients attempting to login. In this regard, the Examiner has stated that "it would have been obvious to a person of ordinary skill in the art to include the limitation set forth above in order to retrieve an indication from the databases for completing a task." (Page 16 of the Office Action). Applicants respectfully disagree if for no other reason that such a claim limitation appears to teach away from the disclosure in Allard that specifically indicates that the "the tracking client and a CST information server must [first] 'negotiate' to determine whether CST can take place." Col. 11, ll. 22-23. This is also particularly true when considering that Allard contemplates different circumstances in which the client will not perform any tracking because the client or server may not be properly set up for CST (client-side tracking). (Col. 5, ll. 27-55). In fact, much of Allard

is directed to embodiments in which a proxy performs the tracking rather than the client. (Col. 6, ll. 54-64).

Attention will now be directed to the remaining independent claims¹, which cover embodiments that are similar to claim 1, except that they do not necessarily require that the time element includes both a charge time portion and a free time portion. Instead, they have been amended differently to clarify embodiments in which multiple metering packets are received during a single session. This particular limitation, in combination with the other recited claim elements is neither anticipated by nor made obvious by Allard or the other cited art. This limitation, which was already inherently present in the claims to some degree, is now explicitly recited. Support for said limitation is clearly supported by the disclosure in Applicants specification, such as, but not limited to the disclosure found in paragraphs [10] and [32] for example.

In contrast to these claims, Allard makes it clear throughout that a single usage log is created and transmitted for each session (Col. 6, ll. 42-45), at the end of the session (Col. 5, ll. 56-59), regardless of how the session is defined (Col. 7, ll. 12-20). Accordingly, Allard clearly fails to anticipate or make obvious the claimed invention, either singly or in combination with the other art, when considering that multiple metering packets are sent for a single session, as claimed, and in combination with the other recited claim elements.

Accordingly, for at least the forgoing reasons, the remaining independent claims should now be found in condition for allowance over Allard and the remaining cited art. Likewise, the

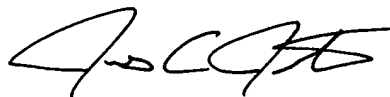
¹ Claims 12 and 20 are directed to corresponding methods and computer program products from the server perspective, using functional language rather than the nonfunctional language of claim 1. Claim 26 is directed to a system/server for implementing the method. Claims 30 and 39 are directed to corresponding methods and computer program products from the client perspective, rather than the server perspective of claim 1.

corresponding dependent claims should also be found to be allowable for at least the same reasons, as well as the others mentioned above.²

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 4th day of April, 2005.

Respectfully submitted,



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² It will be appreciated, however, that not all of the rejections to the dependent claims have been addressed at this time, as it is not necessary. Accordingly, although the purported prior art status and teachings of the cited art has not been fully addressed herein, Applicants hereby reserve the right to further challenge the purported teachings and prior art status of the cited art at any appropriate time in the future, should it arise.